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In The

Supreme Court of the United States

October Term, 1963

No. 749

JOHN J. KELLER,

Petitioner,

vs.

STATE OF WISCONSIN ex rel.,
STATE BAR OF WISCONSIN,
an association,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE
SUPREME COURT OF THE UNITED STATES

REPLY TO MEMORANDUM OF SOLICITOR GENERAL

FRANK M. COYNE
One West Main Street
Madison, Wisconsin 53703

Attorney for Petitioner

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REPLY TO MEMORANDUM OF SOLICITOR GENERAL

This memorandum is submitted in reply to the memorandum by the Solicitor General in the above matter, pursuant to order entered February 17, 1964.

Petitioners admission to practice before the Interstate Commerce Commission is a license or privilege granted under authority of an Act of Congress, 49 USC Section 17

(1). Such admission carries with it the implied power and privilege to do those things that are necessary to carry out the authority given to petitioner.

The Solicitor General's memorandum contains no citations and this writer is not aware of any specific decision directly on point with the instant question. However, I believe the general rule is applicable and set forth the same as given in American Jurisprudence, Volume 50, Page 449, Section 428 as follows:

> IMPLIED POWERS, RIGHTS, AND PRIVILEGES.—"There are some powers, rights and privileges which may be derived from statutory grants by implication. This is true where such powers, rights and privileges are given by necessary implication. Thus, where a statute grants a right, it also confers by implication every particular power necessary for the exercise thereof. In this respect, it has been held that an express statutory grant of a right, power or privilege carries with it by implication, in the absence of a limitation, all the means that are usually employed and that are necessary and proper to the exercise or enjoyment of the right, power or privilege granted. In such case the power necessarily implied is a part of the legislative act. . . ."

I again refer to the petition filed by petitioner in this matter on pages 14 and 15. It is clear from those two pages that the drafting of such leases and contracts is a necessary part of representation of a transportation client before the Interstate Commerce Commission. As such, his admission carries the implied power to draft the same and under *Sperry v. Florida, ex rel., Florida Bar* 373 U. S. 379 the Wisconsin Supreme Court cannot deny petitioner such right.

Lastly, the Solicitor General's memorandum acknowledged that the Interstate Commerce Commission admission *does not prohibit* the drafting of leases and contracts. Accordingly, petitioner, who has been drafting them and preparing them in the past under his license, has been doing it legally. As such, the basic argument set forth in our main petition regarding due process and equal protection apply and we again submit that the decision of the Supreme Court of Wisconsin, which would now take this non-prohibited right away from petitioner, is contrary to the 14th Amendment of the United States Constitution.

Respectfully submitted,

FRANK M. COYNE
Attorney for Petitioner